

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

SRE REAL ESTATE, LLC, a South	)	CIV. 10-5064-JLV
Dakota Limited Liability Company;	)	
and DICK AND JANE'S OF	)	
STURGIS, LLC, a South Dakota	)	ORDER SETTING HEARING
Limited Liability Company,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
CITY OF STURGIS, a Municipal	)	
Corporation,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
STATE OF SOUTH DAKOTA,	)	
	)	
Intervenor.	)	

Pending before the court is a motion for preliminary injunction filed by plaintiffs on October 13, 2010. (Dockets 45). Plaintiffs challenge the constitutionality of Chapter 11-12 of the South Dakota Codified Laws and Section 2.03.13 of the City of Sturgis Municipal Code of Ordinances. Id. at pp. 2-3. Plaintiffs move the court to declare these regulations unconstitutional and enjoin their enforcement. Id. at p. 4. Plaintiffs also seek an award for damages. (Docket 1 at p. 20).

The only party to include in their pleadings a request for jury trial was the City of Sturgis. (Docket 34 at p. 5). The court ordered the parties to

identify questions of fact, if any, that should be submitted to a jury. (Docket 47). Upon reviewing the parties' submissions (Dockets 53, 54, & 56), the court finds it appropriate under Fed. R. Civ. P. 65(a)(2) to consolidate the preliminary injunction hearing with a trial on the merits with respect to the constitutional challenges raised by plaintiffs. If plaintiffs prevail, the issue of damages shall be submitted to a jury for its consideration. Therefore, it is hereby

ORDERED that a consolidated preliminary injunction hearing and trial on the merits as to plaintiffs' constitutional challenges shall be held on **Tuesday, March 1, 2011, at 9 a.m. (MST)** in Courtroom 1 of the Federal Building, 515 Ninth Street, Rapid City, South Dakota.

Dated December 21, 2010.

BY THE COURT:

/s/ Jeffrey L. Viken

JEFFREY L. VIKEN  
UNITED STATES DISTRICT JUDGE